

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-512-W - ORDER NO. 98-390

MAY 29, 1998

IN RE: Application of E&R Partnership for Approval) ORDER
of a New Schedule of Water Rates for Water) APPROVING
Service Provided to it Customers in South Carolina) RATES AND
(Lake Marion Shores and Gin Pond).) CHARGES

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of Application filed by E&R Partnership (E&R or the Company) on January 13, 1998, for an increase in its rates and charges for water service provided to its customers in Clarendon County, South Carolina. This Application was filed pursuant to S.C. Code Ann., §58-5-240 (1976), as amended and 26 S.C. Regs. 103-821 (1976), as amended.

By letter, the Commission's Executive Director instructed the Company to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by the Company's Application. The Notice of Filing indicated the nature of the Company's Application and advised all interested parties of the manner and time in which to file appropriate pleadings. Additionally, the Company was instructed to directly notify all of its customers affected by the proposed increase. The Company submitted affidavits indicating that it had complied with these instructions. Petitions to Intervene were filed by the Consumer Advocate for the State of South

Carolina (the Consumer Advocate), Harold D. Detwiler, and Merdick H. Brown (the Intervenor).

On May 12, 1998, a public hearing concerning the matters asserted in the Company's Application was held in the Commission's Hearing Room. Pursuant to S.C. Code Ann., §58-3-95 (Supp. 1992), a panel of three (3) Commissioners, Commissioners Arthur, Mitchell, and Saunders, was designated to hear and rule on this matter. Commissioner Arthur presided. The Company was represented by Scott L. Robinson, Esquire; the Intervenor, Consumer Advocate for the State of South Carolina was represented by Elliott F. Elam, Jr., Esquire; the Intervenor, Harold D. Detwiler and Merdick H. Brown appeared pro se; and the Commission Staff was represented by F. David Butler, General Counsel.

The Company presented the testimony of Timothy P. Oliver. The individual Intervenor testified on their own behalf. The Commission Staff presented the testimony of Steve W. Gunter, Accountant/Fiscal Analyst and Charles A. Creech, Utilities Engineer. Various members of the public were heard on the issues in the case.

Upon full consideration of the Company's Application, the evidence presented at the hearing, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. E&R provides water service to 241 residential customers in the Gin Pond and Lake Marion Shores Subdivisions in Clarendon County, South Carolina. It appears

from the records that the Company is presently operating Gin Pond under rates set by Order No. 92-892, issued in Docket No. 92-423-W. The present rates for Lake Marion Shores were set by Order No. 93-670, issued in Docket No. 92-651-W.

2. With regard to E&R's present rates, the Company has a flat fee of \$9.00 per month for water service for Gin Pond and \$14.00 per month for Lake Marion Shores. The Company proposes to increase both rates to \$26.00 per month, an increase of 188.89% for Gin Pond and 85.71% for Lake Marion Shores. This increase amounts to a \$37,764 increase in revenues. The present revenue of the Company is \$37,428 annually. With the increase, this would amount to \$75,192. The Company presently has a tap fee of \$200.00. The Company proposes to increase this fee to \$450.00, and to institute a reconnect fee of \$50.00.

3. E&R asserts that its requested increase in rates and charges is necessary and justified because the Company's present rates do not generate enough income to properly maintain the system and to ensure adequate water services for all of its customers. According to the testimony of Timothy Oliver, E&R is a private water utility that serves some 241 customers in Clarendon County, South Carolina, with a potential for additional customers. Oliver states that at the time the present rate structures were approved, the approved amounts were reasonable. Oliver asserts that since that time, there have been continuing expense increases, and he further asserts, that the added costs of operating the Company has increased to a great degree.

4. Both individual intervenors Detwiler and Brown testified as to various problems that they had had with the system. Both, however, stated that although some increase might be reasonable, the increase requested should not be granted.

5. Many members of the public testified as to their various difficulties with the system.

6. One member of the public offered photos of various parts of the system, and a list, which have been marked for identification as Hearing Exhibit 3.

7. Under the Company's presently approved rates, after pro forma and accounting adjustments, the Commission's Staff determined that E&R's operating revenues, operating expenses, and net income for return were \$37,428, \$30,037, and \$7,391 respectively, for the test year ending December 31, 1997. The Company proposes operating revenues, expenses, and a net income for return of \$82,784, \$69,194, and \$13,590 respectively.

8. E&R differed with certain accounting adjustments proposed by the Commission Staff.

CONCLUSIONS OF LAW

1. The Company is a water utility providing service in its service area within South Carolina. The Company's operations in South Carolina are subject to the jurisdiction of the Commission pursuant to S.C. Code Ann., §58-5-10 et seq. (1976), as amended.

2. A fundamental principle of the ratemaking process is the establishment of a historical test year as a basis for calculating a utility's revenues and expenses, and consequently, the validity of the utility's requested rate increase. While the Commission considers the utility's proposed rate increase based upon occurrences within the test year, the Commission will consider adjustment for any known and measurable and out-of-test-year charges and expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. See Southern Bell Telephone & Telegraph Company v. The Public Service Commission of South Carolina, 270 S.C. 490, 244 S.E. 2d 278 (1978). In light of the fact that the Company proposes that the 12-month period ending December 31, 1997, as the appropriate test year, and Staff has audited the Company's books for that test year, the Commission concludes that the 12-month period ending December 31, 1997 is the appropriate test year for the purposes of this rate request.

3. The Commission concludes that each of the Staff adjustments proposed by the Commission Staff are appropriate and are hereby adopted by the Commission. There are two major adjustments that should be discussed. Staff proposes to eliminate mortgage payments from operating expenses. Mortgage payments are payments of liabilities, but are not allowable as operating expenses. Staff's adjustment is appropriate accordingly. Second, the Company proposes to adjust expenses for the total cost to upgrade the Gin Pond Subdivision system to comply with DHEC as a result of a DHEC inspection. Staff has verified the need for the upgrade, but no firm contract has been signed to have the work performed. Only a proposal was submitted to Staff. Since no

firm contract has been signed, we adopt Staff's adjustment. Again, we adopt the remainder of Staff's adjustments, as they are supported by appropriate regulatory policy.

4. The Commission concludes that after pro forma and accounting adjustments, the Company's test year operating revenues, operating expenses, and net income for return for its system were \$37,428, \$30,037, and \$7,391 respectively. These figures are reflected in Table A as follows:

TABLE A
NET INCOME FOR RETURN

BEFORE RATE INCREASE

Operating Revenues	\$ 37,428
Operating Expenses	<u>30,037</u>
Net Operating Income	\$ 7,391
Customer Growth	<u>0</u>
Total Income for Return	<u><u>\$ 7,391</u></u>

5. Under the guidelines established in the decisions of Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), this Commission does not ensure through regulation that a utility will produce net revenues. As the United States Supreme Court noted in Hope, a utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, employing fair and enlightened judgment and giving consideration to all relevant facts, the Commission should establish rates which will produce revenues "sufficient to assure confidence in the financial

soundness of the utility... that are adequate under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.” Bluefield, supra, at 692-693.

6. There is no statutory authority prescribing the method which this Commission must utilize to determine the lawfulness of the rate of a public utility. For a water utility whose rate base has been substantially reduced by customer donations, tap fees, contributions in aid of construction, and book value in excess of investment, the Commission may decide to use the “operating ratio” and/or “operating margin” method for determining just and reasonable rates. The operating ratio is the percentage obtained by dividing total operating expenses by operating revenues; the operating margin is determined by dividing the total operating income for return by the total operating revenues of the utility.

The Commission concludes that use of the operating margin is appropriate in this case. Based on the Company’s gross revenues, operating expenses, and customer growth for the test year, the Company’s present operating margin for combined operations is as follows:

TABLE B
OPERATING MARGIN

BEFORE RATE INCREASE	
Operating Revenues	\$ 37,428
Operating Expenses	<u>30,037</u>
Net Operating Income	\$ 7,391
Customer Growth	<u>0</u>
Total Income for Return	<u>\$ 7,391</u>
Operating Margin	<u>19.75%</u>

7. The Commission is mindful of the standard delineated in the Bluefield decision and of the need to balance the respective interests of the Company and of the consumer. It is incumbent upon this Commission to consider not only the revenue requirement of the Company but also the proposed price for the water treatment, the quality of the water service, and the effect of the proposed rates upon the consumers. See Seabrook Island Property Owners Association v. South Carolina Public Service Commission, 401 S.E. 2d 672 (1991); S.C. Code Ann., §58-5-290 (1976), as amended.

8. The fundamental criteria of a sound rate structure have been characterized as follows:

...(a) the revenue-requirement or financial-need objective, which takes the form of a fair-return standard with respect to private utility companies; (b) the fair-cost apportionment objective which invokes the principle that the burden of meeting total revenue requirements must be distributed fairly among the beneficiaries of the service; and (c) the optimum-use or consumer rationing under which the rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received.

Bonbright, Principles of Public Utility Rates (1961), p. 292.

9. Based on the considerations enunciated in Bluefield and Seabrook Island, and on the fundamental criteria of a sound rate structure as stated in Principles of Public Utility Rates, the Commission determines that the Company should have the opportunity to earn a 39.20% operating margin. In order to have a reasonable opportunity to earn an 39.20% operating margin, the Company will need to produce \$54,948 in total annual operating revenues.

TABLE C
OPERATING MARGIN

AFTER RATE INCREASE

Operating Revenues	\$ 54,948
Operating Expenses	<u>33,411</u>
Net Operating Income	\$ 21,537
Customer Growth	<u>0</u>
Total Income for Return	<u>\$ 21,537</u>
 Operating Margin	 <u>39.20%</u>

10. In order to earn the additional operating revenues necessary to earn an operating margin of 39.20%, additional annual revenues will be required of \$17,520. In order to earn these additional revenues, the present flat rate of \$9.00 and \$14.00 per month will have to be increased to \$19.00 per month for the Company's customers. In order to avoid rate shock to Gin Pond's customers, however, we hold that Gin Pond customers will pay \$14.00 per month for one year, and then will pay \$19.00 per month thereafter, until further Order of the Commission. Further, upon examination of the record, we do not believe that an increase in the amount of the tap fee is warranted at this time. We hereby grant the establishment of a \$50.00 reconnect fee.

11. In considering the requested increase, the Commission has considered the interests of the utility, as well as the customers of E&R Partnership. The Commission has determined that the proposed increase is unreasonable, and that a more appropriate increase would be accomplished with a \$19.00 flat rate as shown in Appendix A attached to this Order (as phased in for Gin Pond).

12. Accordingly, it is ordered that the rate attached on Appendix A is hereby approved for service rendered on or after the completion of the procedure as stated above.

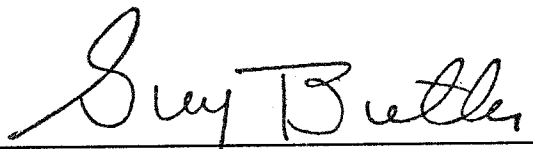
13. It is ordered that if the approved schedule is not placed in effect within three (3) months after the date of the completion of the described procedure, the approved schedule shall not be charged without written permission of the Commission.

14. It is further ordered that the Company maintain its books and records for water operations in accordance with the NARUC Uniform System of Accounts for water and sewer utilities as adopted by this Commission.

15. Hearing Exhibit 3, whose contents have been identified, shall be admitted into the evidence of this case.

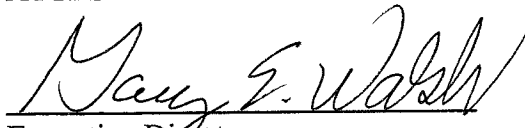
16. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Deputy Executive Director

(SEAL)

APPENDIX A

E & R PARTNERSHIP
RT. 1, BOX 1204
SUMMERTON, SC 29149
(803) 478-4955

Filed pursuant to Docket No. 97-512-W, Order No. 98-390

Lake Marion Shores

Effective May 29, 1998

Monthly Flat Rate	-	\$ 19.00
Tap Fee	-	\$200.00
Reconnect Fee	-	\$ 50.00

Gin Pond Shores

Effective May 29, 1998

Monthly Flat Rate	-	\$ 14.00
Tap Fee	-	\$200.00
Reconnect Fee	-	\$ 50.00

Effective May 29, 1999

Monthly Flat Rate	-	\$ 19.00
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